



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,993	10/03/2000	Curt J. Witte	9201-3	5689

20792 7590 03/22/2005

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

EXAMINER

HECK, MICHAEL C

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/677,993

Applicant(s)

WITTE ET AL.

Examiner

Michael C. Heck

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 8,9,33,34,55 and 56.
Claim(s) rejected: 1,3-7,10-14,16-23,25,26,28-32,35-39,41-48,50-54,57-61 and 63-69.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.



TARIQ R. HAFIZ

Continuation of 11. does NOT place the application in condition for allowance because: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Business/Technology Editors (Business/Technology Editors, Webhire Links Corporate Recruiting Desktops to Over 2,000 Job Posting Sites, Business Wire, New York, March 2, 2000 [PROQUEST]) teach an online tool that helps target jobs to the most appropriate online destinations. Specifically, Business/Technology Editors teach the online job site search tool helps recruiters target their jobs to the most appropriate career sites, professional organizations and job boards. Corporate recruiters indicate the type of position they are filling, for example, engineering or accounting, and quickly receive an online listing of the specific job sites within the service that are most likely to attract qualified candidates for those specific openings. Job site searches can also be targeted regionally or focused on specific attributes, such as diversity candidates or college graduates (Para 4 and 6). In summary, Business/Technology Editors teach the analysis of information that generates a listing of job sites to target that will satisfy the user's requirements. The problem to be solved is to identify the job sites that are best suited to the recruiter's particular job opening needs. Li (U.S. Patent 4,910,660) teaches a method for self-optimizing an object relative to a specific criterion or activity in response to variations on a prescribed number *m* of variables. Li also teaches a self-optimizing machine and method that actively computes, and automatically sets at, the instantaneous optimum combinations of the many relevant variables in various categories, with instant feed-back to supply data for immediate re-planning, retesting, and re-optimizing, all without human intervention. The microprocessor can instantly rank the *n* test results to determine the optimum performance on test *k*, which, by definition, has the instantaneous optimal variables combination. Each expert system typically has as its components the knowledge base, an inference engine, a knowledge acquisition module, and explanatory interface. Li's self-optimizing machine always has a knowledge acquisition module to generate the required knowledge bases in a particular domain of interest. These knowledge bases are automatically codeable into an inference engine to provide "advices" as its outputs. Further, Li teaches the self-optimizing method and machine can be used for many automation systems in various industries including manufacturing, servicing, office, military, farming, medical, and education (abstract, col. 3, lines 48-54, col. 6, lines 47-51, col. 7, lines 31-39, and col. 11, lines 32-36). In summary, Li teaches analyzing data relating to a specific criterion to reach an optimum solution. Li's teachings, as indicated above, are applicable to the service industry. Webhire, Inc. is considered the leading business service provider in the Internet recruiting marketplace (Para 2). The combination of Business/Technology Editors and Li allows for a reasonable expectation of success in that the optimum job site solutions to fill a particular job opening are presented to the recruiter based on the information that is known. As indicated in the prior Office Action, all the limitations of the claimed invention are addressed. Specifically, "obtaining at least one job post site selection criterion" and "selecting the job post site from the plurality of job post sites based on the ranking of the plurality of job post sites" is addressed by the Business/Technology Editors, while "automatically ranking a plurality of job post sites based on the at least one job post site selection criterion, comprising: accessing a fact table that contains data relevant to the at least one job post site selection criterion; and using an inference engine to process the at least one job post site selection criterion and the fact table to rank the plurality of job post sites based on the at least one job post site selection criterion" is addressed by Li.

In addition, Applicant submits that human feedback is a critical differentiator between Business/Technology Editors and Li in that human feedback would be essential to Business/Technology Editors' method where Li's system would not incorporate human feedback. However, it must be pointed out that Business/Technology Editors' method does not address where the information for the specific job site solution comes from. Li optionally starts with a preexisting knowledge base as the foundation of the system to prime the improved self-optimizing machine and method, or starts with a randomly generated number. The self-optimizing machine always has a knowledge-acquisition module to generate the required knowledge bases in a particular domain of interest (Figure 3, col. 7, lines 34-39, and col. 9, lines 16-30). The examiner notes that the claimed invention as presented by the applicant accesses a database for relevant data, but does not identify how the database is created or updated, i.e., by a machine or by a human. Therefore, the human factor element is not relevant to whether Business/Technology Editors and Li are combinable.